

Remarks

In view of the following remarks, Applicant respectfully requests reconsideration and allowance of the subject application. Claims 1-5, 7-9, 14-15, and 18-26 have been amended herein. Claims 1-26 are pending.

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Statement of Substance of Interview dated 4/12/07

Initially, Applicant wishes to thank Examiner Adam Weintrop and Supervisory Patent Examiner Frantz Jules for conducting a telephonic interview with Applicant's attorney, Daniel T. McGinnity, on April 12, 2007.

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During the interview, Applicant's Attorney discussed patentability arguments regarding the §102 rejections over Ehrich and the §103 rejections based upon Lorenz in view of Davis. In particular, it was asserted that Ehrich was directed at monitoring which occurs outside of selection of links and accordingly does not describe the subject matter of the Applicant's claims. Further it was asserted that motivation for combining Lorenz and Davis was lacking at least because (1) Lorenz teaches away from the combination; and (2) the combination would result in an impermissible modification to an operating principle of Lorenz. No agreement was reached. The Examiners requested that the Applicant's arguments be presented in a formal response for further consideration. Accordingly, those arguments are presented in detail herein

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For at least the reason discussed in the interview, Applicant submits that all of the pending claims are in condition for allowance. If any issues remain that

would prevent the allowance of the application, Applicant requests that the Examiner contact the undersigned attorney to resolve the issues.

Claim Objections

Appropriate correction has been made herein to address the claim objections noted by the Examiner (*Office Action, p. 2*). Accordingly, the objections have been obviated.

35 U.S.C. §112 Rejections

Appropriate correction has been made herein to address the alleged indefiniteness by the Examiner (*Office Action, p. 3*). Accordingly, the rejections under 35 U.S.C. §112 have been obviated.

35 U.S.C. §101 Rejections

Claims 9-26 are rejected under 35 U.S.C. §101 as being directed to non-statutory subject matter (*Office Action, p. 4*). Applicant respectfully disagrees. However, claims 9 and 18 have been amended herein. Accordingly, claims 9-26 as presently recited satisfy the requirements of §101 and withdrawal of the §101 rejections is respectfully requested.

35 U.S.C. §102 Rejections

Claims 1, 4-6, 8-9, 12-14, 18-19, and 22-23 are rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent Publication No. 2004/0215715 A1 (“Ehrich”). Applicant respectfully disagrees. For at least the following reasons,
5 Ehrich fails to disclose all the recited features of Applicant’s claims. For example:

Claim 1 recites a method, comprising:

- receiving a request from a client to view a web page that includes one or more selectable links;
- 10 • inspecting each of the one or more selectable links to determine if the one or more selectable links contain a respective link identifier, the respective link identifier configured to designate a corresponding selectable link to be tracked via a tracking system;
- 15 • replacing each of the one or more selectable links identified as containing the respective link identifier with a modified link that contains a tracking identifier for use in the tracking system to track the corresponding selectable link;
- injecting client-side tracking code into the web page, the client-side tracking code being configured to run tracking procedures on the client when one of said modified links is selected;
- 20 • loading the web page so that the web page is viewable at the client;
- monitoring for a selection of one of said modified links; and
- 25 • when one of said modified links is selected, communicating with the client to initiate the client-side tracking code to execute a tracking function that records information related to the corresponding selectable link in a log file.

As described in detail below, Ehrich is silent regarding tracking occurring upon selection of links and in fact includes disclosure which directly contradicts
30 such tracking. For at least the reasons that follow, Ehrich does not disclose all the features recited in claim 1. Accordingly, is not anticipated by Ehrich and withdrawal of the §102 rejection is respectfully requested.

Ehrich is directed to a system in which a web page is divided into regions, and the regions are then monitored for client activity. This activity can be collected by a data collector then sent to a server. Specifically, Ehrich is directed towards collecting data related to how long a user remains in a specific region of a web page. The interaction with the regions is generally monitored by timing the placement of the mouse cursor within the region. The amount of time a user spends in a region is then sent back to the server, via the data collector. *Ehrich, Summary; paragraphs [0009]-[0012]*.

Further, in the following excerpted portions for Ehrich explicitly describe that Ehrich is not interested in tracking clicks of selectable links:

When a user moves his pointing device into region A 210, the collector program tracks how long the pointing device is within region A 210. If the user selects link 212, 214, or 216, and the selection instructs the client to request a new we page, the collector program stops collecting user event data and sends the amount of time the user's pointing device remained in region A 210 prior to the new page request. *Ehrich, paragraph [0035]*.

Further, "For example, the user may select a hyperlink on the displayed web page that points to a second web page. If the user event is a new page request, decision 660 branches to "Yes" branch 662 which loops back to send and process a new page request. This looping continues until the client detects a user event that is not a new page request, at which point decision 660 branches to "No" branch 664 whereupon the client collects user event data corresponding to the user event, and sends the user event data (e.g. data 688) to the server. *Ehrich, paragraph [0035]*

It is clear from the above excerpted passages that tracking in Ehrich stops when user selects link or make a new web page request. Thus, Ehrich is simply directed a different subject matter than that of claim 1. Monitoring the amount of time in a region or detecting the position of a mouse is not equivalent to the positively recited features of claim 1. For instance, Ehrich lacks at least “inspecting each of the one or more selectable links to determine if the one or more selectable links contain a respective link identifier”; “replacing each of the one or more selectable links identified as containing the respective link identifier with a modified link that contains a tracking identifier for use in a tracking system”; and “injecting client-side tracking code into the web page, the client-side tracking code being configured to run tracking procedures on the client when one of said modified links is selected” (emphasis added). Ehrich explicitly teaches away from interaction with individual links, and instead focuses upon tracking time spent in a region based upon cursor position, e.g., area-based tracking. Applicant asserts that tracking of interaction or hovering within a region using a mouse/cursor as in Ehrich is not equivalent to selection of modified links as recited in claim 1. Further, grouping of regions or dividing a web page into regions is not equivalent to the replacing feature of claims, such as “replacing each of the one or more selectable links identified as containing the respective link identifier with a modified link that contains a tracking identifier” as in claim 1.

Ehrich simply does not describe what is claimed, namely, “inspecting each of the one or more selectable links to determine if the links contain a respective

link identifier; replacing each link identified as containing the respective link identifier with a modified link that contains a tracking identifier for use in the tracking system.” Further, Ehrich is entirely silent with respect to “the client-side tracking code being configured to run tracking procedures on the client when one of said modified links is selected.” Ehrich says the opposite as stated above in that his monitoring procedures only send data when a link is not selected.

Further, Ehrich does not disclose “when a selectable link is selected, communicating with the client to initiate the client-side tracking code to execute a tracking function that records information related to the corresponding selectable link in a log file” as also recited in claim 1. Again, Ehrich is only directed towards collecting data in the absence of the clicking of links. This makes it impossible for Ehrich to perform the functions just described above as claimed in claim 1.

The Examiner argues that Ehrich’s method for dividing a web page into regions for monitoring is the same as the Applicant’s method of “replacing each link identified as containing a link identifier with a modified link that contains a tracking identifier for use in a tracking system” as recited in claim 1. The Examiner asserts Ehrich’s statement that, “other methods of regionalizing a web page may be used, such as logical groupings whereby each web page link on a particular web page is grouped into one region”. *Ehrich, paragraph [0042]*. Even if a region is defined according to “logical groupings whereby each web page link on a particular web page is grouped into one region”, this is not equivalent to the claimed features. Simply defining the regions in Ehrich to include all or some of

the page links does not provide a basis for tracking the selection of those links. In fact, the groupings mean that the regions are tracked as a group rather than tracking of the individual links therein, which differentiates the claims as presently recited even further from Ehrich. Still further, tracking in Ehrich is, by its own description, terminated upon selection of a link. Thus, Ehrich provides no basis for “run tracking procedures on the client when one of said modified links is selected” as in claim 1.

Claim 1 is allowable for at least these reasons and withdrawal of the §102 rejection is respectfully requested. **Claims 2-8** depend from claim 1 and are allowable at least based upon this dependency, as well as for their own recited features which the reference of record fail to disclose teach or suggest.

Claim 9 recites a system, comprising:

- a processor;
- a memory coupled to the processor;
- web content in the form of one or multiple web pages stored in the memory, one said web page containing a selectable link that includes a link identifier;
- a tracking module stored in the memory and executable via the processor, the tracking module, when executed, configured to:
 - replace the selectable link with a modified link that includes a tracking identifier in place of the link identifier of the selectable link;
 - inject client-side tracking code into the web page that contains the modified link; and
 - call the client-side tracking code to execute and initiate a tracking event with a tracking system when the modified link is selected.

As discussed with respect to claim 1, Ehrich is directed at tracking time spent in an area or region and expresses no concern for tracking or modification of individual links. Further, Ehrich explicitly states that tracking is stopped when a link is selected. Ehrich is simply directed to different subject matter than the claims as presently recited. Ehrich fails to disclose, teach, or suggest the features of claim 9 such as “replace the selectable link with a modified link that includes a tracking identifier in place of the link identifier of the selectable link”, “inject client-side tracking code into the web page that contains the modified link”; “call the client-side tracking code to execute and initiate a tracking event with a tracking system when the modified link is selected”. In contrast to these recited features of claim 9, focus in Ehrich is on regions and the tracking of the regions in Ehrich occurs prior to link selection and terminates upon selection of a link. Thus, Ehrich fails to describe the subject matter of claim 9.

Claim 9 is allowable for at least these reasons and withdrawal of the §102 rejection is respectfully requested. **Claims 10-17** depend from claim 9 and are allowable at least based upon this dependency, as well as for their own recited features which the reference of record fail to disclose teach or suggest.

Claim 18 recites one or more computer-readable storage media containing computer-executable instructions that, when executed on a computer, perform the following steps:

- replacing selectable tracking links in a requested web page with modified selectable links that each include a tracking identifier for

use with a tracking system to track a corresponding selectable tracking link;

- injecting client-side code into the requested web page, the client-side code being configured to run to initiate a tracking event when one of said modified selectable links is selected;
- initiating execution of the client-side code upon determining that one of said modified selectable links has been selected at the client; and
- providing tracking information to a tracking system configured to log information related to the one said modified selectable link and the selection thereof.

As discussed with respect to claim 1 and 9, Ehrich is directed at tracking time spent in an area or region and expresses no concern for tracking or modification of individual links. Further, Ehrich explicitly states that tracking is stopped when a link is selected. Ehrich is simply directed different subject matter than the claims as presently recited. Ehrich fails to disclose, teach, or suggest the features of claim 18 such as “replacing selectable tracking links in a requested web page with modified selectable links that each include a tracking identifier for use with a tracking system”, “injecting client-side code into the requested web page, the client-side code being configured to run to initiate a tracking event when one of said modified selectable link is selected”, and “initiating execution of the client-side code upon determining that the one of said modified selectable links has been selected at the client”. In contrast to these recited features of claim 18, the focus in Ehrich is on regions, and the tracking of the regions in Ehrich occurs prior to link selection and terminates upon selection of a link. Thus, Ehrich fails to describe the subject matter of claim 18.

Claim 18 is allowable for at least these reasons and withdrawal of the §102 rejection is respectfully requested. **Claims 19-26** depend from claim 18 and are allowable at least based upon this dependency, as well as for their own recited features which the reference of record fail to disclose, teach, or suggest.

For the foregoing reasons, withdrawal of the §102 rejections against claims 1, 4-6, 8-9, 12-14, 18-19 and 22-23 is respectfully requested

35 U.S.C. §103

Claims 2-3, 7, 10-11, 15, 20-21, and 25-26 are rejected under 35 U.S.C. §103(a) as being un-patentable over Ehrich in view of U.S. Patent Publication No. 2002/0165955 A1 (“Johnson”).

Claim 24 is rejected under 35 U.S.C. §103(a) as being un-patentable over Ehrich in view of U.S. Patent Publication No. 2003/0177226 A1 (“Garg”).

Claims 16-17 are rejected under 35 U.S.C. §103(a) as being un-patentable over Ehrich in view of U.S. Patent Publication No. 2004/0215715 A1 (“Mogul”).

Each of these rejections is based upon Ehrich and the asserted features discussed above with respect to claims 1, 9, and 18. As discussed above Ehrich does not in fact describe the features for which it is relied upon by the Office. None of Johnson, Garg, or Mogul corrects the above described defects in Ehrich.

Each of claims 2-3, 7, 10-11, 15-17, 20-21, and 24-26 incorporates the features of the respective base claim from which it depends and is allowable at least based upon this dependency, as well as for its own recited features which the

references of record fail to disclose, teach, or suggest. Accordingly, withdrawal of the §103 rejections of these claims is respectfully requested.

35 U.S.C. §103

5 Claims 1, 6, 8-9, 12, 14, and 18-19 are rejected under 35 U.S.C. §103(a) as being un-patentable over U.S. Patent Publication No. 2003/0174882 (“Lorenz”) in view U.S. Patent No. 5,796,952 (“Davis”).

10 Claims 2-5, 7, 10-11, 13, 15, 20-23, and 25-26 are rejected under 35 U.S.C. §103(a) as being un-patentable over Lorenz in view of Davis in further view of Johnson

15 Applicant respectfully disagrees. As discussed below in detail, the proposed combinations of references fail to disclose, teach, or suggest the subject matter of Applicant’s claims. Further, sufficient motivation for the proposed combinations is lacking at least because (1) Lorenz teaches away from the combination; and (2) the combination would result in an impermissible modification to an operating principle of Lorenz.

20 Lorenz presents a system for tracking user interaction with web resources. This system involves a user activating an entry point into the system, such as an email link, the system then routes this link request to a gateway server that can be used to maintain types of tracking information. From there, the gateway server sends a possibly modified request to a web server that actually hosts the web resource being sought by the user. The response to the modified request goes back

through the gateway, which may then modifies the request by providing loaded links in place of the existing links, then sends it to the user, such that the loaded links point back to the gateway. Without deviation, Lorenz describes tracking which occurs by routing requests to the gateway, e.g., not the client. Thus, Lorenz is not concerned with tracking via client side tracking code. It is noted that Lorenz states that “yet another object is to do so without a need to make changes to user-side hardware or software, or to use cookies.” Thus, Lorenz appears to be entirely inconsistent with the client-side tracking features of the present claims.

Davis describes tracking client interaction with a network resource. A timer program may be linked to an HTML document. The timer program begins a software timer to monitor the amount of time a web page is displayed on the client computer. When a user exits the page such as by clicking a link, the amount of monitored time is sent to another computer on the internet for storage and analysis.

Davis, col. 9 lines 3-15.

The proposed combination of Lorenz and Davis fails to disclose all the recited features of the claims as presently recited. For example:

Claim 1 recites a method, comprising:

- receiving a request from a client to view a web page that includes one or more selectable links;
- inspecting each of the one or more selectable links to determine if the one or more selectable links contain a respective link identifier, the respective link identifier configured to designate a corresponding selectable link to be tracked via a tracking system;
- replacing each of the one or more selectable links identified as containing the respective link identifier with a modified link that

contains a tracking identifier for use in the tracking system to track the corresponding selectable link;

- injecting client-side tracking code into the web page, the client-side tracking code being configured to run tracking procedures on the client when one of said modified links is selected;
- loading the web page so that the web page is viewable at the client;
- monitoring for a selection of one of said modified links; and
- when one of said modified links is selected, communicating with the client to initiate the client-side tracking code to execute a tracking function that records information related to the corresponding selectable link in a log file.

In making out the §103 rejection, Examiner relies upon the “loaded links” of Lorenz. *Office Action*, p. 18. However, the loaded links of Lorenz perform a different function and are simply not equivalent to the recited features of claim 1.

Lorenz describes loaded links which are defined as “any URL addressed to an APT Gateway Facility (comprising an APT application running on a server connected to the internet using conventional means) and bearing one or more TRANSACTION PARAMETERS”. *Lorenz*, paragraph [0028]. Thus, without deviation the loaded links point to an APT gateway, which is clearly separate from the client. In Lorenz, the loaded links are to redirect the client to the APT gateway which performs the tracking functions. The loaded links of Lorenz are not configured such that selection of the link would “initiate the client-side tracking code to execute a tracking function that records information related to the selectable link in a log file” as in claim 1. Lorenz is entirely silent on client side tracking as the Examiner has correctly acknowledged. *Office Acton*, p. 19. Thus, the loaded links are not equivalent to the selectable links and/or modified links as

recited in claim 1. A loaded link pointing/redirecting to a gateway, is not the same as a modified link that contains a tracking identifier for use in a tracking system and which is “to initiate the client-side tracking code to execute a tracking function that records information related to the corresponding selectable link in a log file”.

5 Claim 1 is allowable for at least this reason.

Examiner also relies upon an agenda script of Lorenz, which the Examiner asserts is functionally equivalent to “inspecting each of the one or more selectable links to determine if the one or more selectable links contain a link identifier” and “replacing each of the one or more selectable links identified as containing the link
10 identifier with a modified link that contains a tracking identifier for use in a tracking system”. *Office Action, p. 18*. Applicant respectfully disagrees. The agenda script does not perform these functions for which it is relied upon. Rather, Lorenz simply describes that the agenda script acting to replace any or all URLs in the document with loaded links. *Lorenz, paragraph [0064]*. This global link
15 loading performed by the agenda script in Lorenz is not functionally equivalent to the claimed features. Lorenz is entirely silent as to the agenda script inspecting “to determine if the one or more selectable links contain a link identifier” and replacing links “identified as containing the link identifier”. No determination or identification of link identifiers within the links, or replacement based thereupon,
20 is described in Lorenz. Further, since any or all URLs are replaced in Lorenz, such determination and identification is not useful. Thus, while the agenda script performs link loading, this is not equivalent to the recited features of claim 1.

In Lorenz, the tracking, the loaded links, the agenda script, the link loading and so forth, are all configured such that the tracking functionality occurs at the APT gateway/server, e.g., server side. Thus, tracking in Lorenz is performed in an entirely different manner than in claim 1. While Davis does describe tracking client interaction with a network resource, Davis does not correct the above noted defects in Lorenz. Thus, the proposed combination of Lorenz and Davis fails to disclose, teach, or suggest all the recited features of claim 1 and withdrawal of the §103 rejection is respectfully requested.

Assuming for the sake of argument only that the combination of Lorenz and Davis is construed as providing the features required by claim 1, (which for the foregoing reasons Applicant asserts it does not), motivation for combining Lorenz with Davis is lacking at least because (1) Lorenz teaches away from the combination; and (2) the combination would result in an impermissible modification to an operating principle of Lorenz.

As the Examiner is likely aware there is a requirement that there must be some reason, suggestion, or motivation from the prior art, as a whole, for the person of ordinary skill to have combined or modified the references. *See, In re Geiger, 2 USPQ 2d 1276, 1278 (Fed. Cir. 1987)*. The mere fact that the prior art may be modified in the manner suggested by the Examiner does not make the modification obvious unless the prior art suggested the desirability of the modification. It is impermissible to use the claimed invention as an instruction manual or “template” to piece together the teachings of the prior art so that the

claimed invention is rendered obvious as the following excerpt makes clear. *In re Oetiker*, 977 F.2d 1443, 24 USPQ 2d 1443 (Fed. Cir. 1992).

A factor cutting against a finding of motivation to combine or modify the prior art is when the prior art *teaches away* from the claimed combination. A reference is said to teach away when a person or ordinary skill, upon reading the reference, would be led in a direction divergent from the path that the applicant took. *In re Gurley*, 31 USPQ 2d 1130, 1131 (Fed. Cir 1994).

Applicant asserts that Lorenz teaches away from the claimed features. Lorenz explicitly indicates it is an object to develop techniques for tracking user interaction with web resources and **“to do so without a need to make changes at user-side hardware or software, or to use cookies.”** *Lorenz*, paragraph [0014] lines 1-6. This express statement from Lorenz is directly contrary to claimed features. Further, Lorenz is exclusively directed to techniques which occur via an APT Gateway, e.g., at a server which is clearly apart from the client. For instance, the loaded links in every instance are described as redirecting the client to the APT Gateway where all of the functions of the tracking system are performed. The agenda script is also located at and executed by the APT gateway. Lorenz is entirely silent on client side tracking as the Examiner has correctly acknowledged. *Office Action*, p. 19. Applicant asserts that Lorenz simply is not compatible with client side tracking and accordingly is not relevant to the present application and claims. The Lorenz reference should be removed for these reasons. Moreover, the exclusive use of the APT Gateway, loaded links directed to the APT gateway, and

agenda script executed at the gateway, when combined with Lorenz's express statement eschewing changes to user-side hardware or software, would definitely lead one of skill in the art "in a direction divergent from the path that the applicant took". As such, Lorenz *teaches away* from the proposed combination and motivation for the combination is lacking for at least this reason.

Additionally, the proposed combination of Lorenz and Davis would result in an impermissible modification of a principle of operation of Lorenz. If the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious. *In re Ratti*, 270 F.2d 810, 123 USPQ 349 (CCPA 1959)

Lorenz, as repeatedly noted, relies exclusively upon an APT gateway to perform tracking functions. Further, the loaded links are by definition configured to redirect the client to the APT gateway. However, the Examiner proposes combining the server based aspects of Lorenz with client side tracking code allegedly disclosed by Davis. Not only is it unclear how one would pick and choose among the features of Lorenz and Davis to arrive at the claimed features, the references are simply not compatible for the proposed combination. If tracking per the proposed combination of Lorenz and Davis is performed via the client side tracking code, (as required by the present claims) then the exclusively described and essential features of Lorenz (APT gateway, loaded links directing to the gateway, agenda script executing at the gateway) are rendered useless. For

the proposed combination, the tracking is moved to the client side which is not compatible with the techniques described in Lorenz. Lorenz simply performs tracking in a different way than the claimed features.

Further, the combination of Lorenz with the client side code of Davis runs counter to the express statement of Lorenz that it is an object to develop techniques **“without a need to make changes at user-side hardware or software, or to use cookies”**. The APT gateway and associated features are operational principles which are essential in Lorenz to achieve a stated object. Not only is Lorenz not interested in loading code on the client, doing so would impermissible modify Lorenz. This is because Lorenz relies exclusively on the APT gateway to perform tracking functions. Using client-side tracking code, the functionality of this APT gateway server would be altered or removed and thus the essential features of Lorenz would be defeated. Thus, the proposed combination would impermissibly modify a principle upon which Lorenz operates and accordingly motivation for the proposed combination is lacking for this additional reason.

Thus, the proposed combination of Lorenz and Davis is improper for at least these foregoing reasons, and withdrawal of the §103 rejection of claim 1 is respectfully requested. The arguments made with respect to claim 1 are also applicable to claims 9 and 18 and their associated dependent claims. Accordingly, withdrawal of the §103 rejections of claims 1, 6, 8-9, 12, 14, and 18-19 is respectfully requested.

35 U.S.C. §103

Claims 2-5, 7, 10-11, 13, 15, 20-23, and 25-26 are rejected under 35 U.S.C. §103(a) as being un-patentable over Lorenz in view of Davis in further view of Johnson.

Claim 24 is rejected under 35 U.S.C. §103(a) as being un-patentable over Lorenz in view of Davis in further view of Garg.

Claims 16-17 are rejected under 35 U.S.C. §103(a) as being un-patentable over Lorenz in view of Davis in further view of Mogul.

Each of these rejections is based upon the proposed combination of Lorenz in view of Davis and the asserted features discussed above with respect to claims 1, 9 and 18. As discussed above Lorenz in view of Davis does not in fact teach or suggest the feature for which it is relied upon by the Office, and motivation for the proposed combination is lacking. None of Johnson, Garg, or Mogul corrects the above described defects in the proposed combination of Lorenz in view of Davis.

Each of claims 2-3, 7, 10-11, 15-17, 20-21, and 24-26 incorporates the features of the respective base claim from which it depends and is allowable at least based upon this dependency, as well as for its own recited features which the reference of record fail to disclose, teach, or suggest. Accordingly, withdrawal of the §103 rejections of these claims is respectfully requested.

Conclusion

Claims 1-26 are in condition for allowance and the Applicant respectfully requests reconsideration and prompt issuance of the present application. Should any issue remain that prevents immediate issuance of the application, the Examiner is requested to contact the undersigned attorney to discuss the unresolved issue.

Respectfully submitted,

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